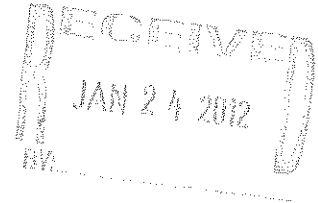




DEPARTMENT OF JUSTICE
TRIAL DIVISION

January 23, 2012



Via Mail & email - dp@DavidPaulLaw.com

David Paul
David Paul PC
520 SW 6th Ave Ste 920
Portland OR 97204
Of Attorneys for Plaintiff

Re: *Maples (Olson) v. State of Oregon (DHS)*
Lane County Circuit Case No. 161119202

Dear Mr. Paul:

Attached is a revised version of the settlement agreement and release. I believe it incorporates the changes we have discussed to this point. It is signed by me and is ready for your client's signature and submission to the probate court. I will send the originals by mail and will send electronic copies to you this date.

Thank you for your continuing courtesies. Take care.

Sincerely,

David L. Kramer
Senior Litigation Counsel

3181889-v1/DLK/cbh
Enclosure

1
2
3
4 IN THE CIRCUIT COURT OF THE STATE OF OREGON
5 FOR THE COUNTY OF LANE

6 ERIN K. OLSON, as personal representative
7 for the Estate of JEANETTE MAPLES, also
8 known as JANETTE MAPLES, decedent,

9 Plaintiff,

10 v.

11 STATE OF OREGON, by and through its
12 Department of Human Services, an
13 administrative agency of the State,

14 Defendant.

Case No. 161119202

SETTLEMENT AND RELEASE AGREEMENT

15 1. There is currently an action pending in the Circuit Court for Lane County, Oregon,
16 County Circuit Court Case No. 161119202, entitled *Erin K. Olson, as personal representative for*
17 *the Estate of Jeanette Maples, also known as Janette Maples, decedent v. State of Oregon, by and*
18 *through its Department of Human Services, an administrative agency of the State.*

19 2. Plaintiff Erin K. Olson is the duly appointed personal representative for the Estate of
20 Jeanette Maples, also known as Janette Maples, decedent (hereafter plaintiff), and is represented by
21 attorney David Paul. Defendant State of Oregon, by and through its Department of Human Services
22 (hereafter State of Oregon) is represented by DAVID L. KRAMER #80290, Senior Assistant
23 Attorney General. The parties have agreed to settle this matter, the terms of which are set forth in
24 this Settlement Agreement and Release of Claims (hereafter Agreement).

25 //

26 //

1 3. (a) In consideration for payment by the State of Oregon the sum of ONE
2 MILLION, FIVE HUNDRED THOUSAND Dollars (\$1,500,000.00) inclusive of all claimed and
3 unclaimed damages (economic, non-economic, punitive, or compensatory damages) attorney fees,
4 costs and all forms of liens (including but not limited to medical, hospital, PIP, Medicare or attorney
5 liens), the receipt of which is hereby acknowledged by the undersigned, ERIN K. OLSON, as
6 personal representative for the Estate of JEANETTE MAPLES, also known as JANETTE
7 MAPLES, decedent, individually and for the heirs, executors, administrators, successors and
8 assigns, and all those in interest with the Estate, does hereby release, acquit and forever discharge
9 the State of Oregon, including but not limited to its Department of Human Services, its successor
10 agencies, its current and former employees, attorneys, insurers, agents and all other persons who
11 might be claimed to be liable, none of whom admits liability, but each of whom expressly denies
12 liability (hereafter Released Parties), of and from any and all claims, demands, actions, causes of
13 action, suits, or causes of suit of every nature whatsoever, including but not limited to all claims
14 known or unknown related to the transactions alleged in the above suit, all claims for economic,
15 non-economic, compensatory, and punitive damages in any form including but not limited to past
16 and future medical/mental health expenses, lost wages, impairment of earnings, emotional/mental
17 distress damages, pain and suffering damages, any other form of damages, including but not limited
18 to, those damages alleged or which could have been alleged by plaintiff in the civil proceeding
19 identified in paragraph 1 including attorney fees and costs.

20 (b) In consideration of the payments set forth in paragraph 3(a) of the
21 Agreement, plaintiff waives, releases, and forever discharges Released Parties from any obligations
22 for any claim, known or unknown, arising out of the failure of Released Parties to provide for a
23 primary payment or appropriate reimbursement pursuant to 42 U.S.C. § 1395y(b)(3)(A).

24 (c) Plaintiff further agrees that he/she shall execute and deliver to the State of
25 Oregon copies of all documents or agreements and do such further acts and things as the State of
26 Oregon may reasonably request when necessary to effectuate the purposes of the Agreement.

1 (d) Should any person or entity not a party hereto challenge the validity of this
2 Agreement, or any term thereof, pursue recovery of monies from the Released Parties or bring a
3 claim or claims against the Released Parties, the plaintiff shall provide to Released Parties such
4 cooperation and assistance as Released Parties may reasonably request in order to resist such a
5 challenge or defend such a claim.

6 (e) Plaintiff acknowledges that all subrogation and lien claims arising out of
7 contract or under state or federal law, including, but not limited to, subrogation or lien claims of
8 plaintiff's health care providers, insurance carriers (including PIP), state worker's compensation,
9 attorneys, and any federal agency or programs such as Medicare, Medicaid, or Social Security, are
10 the sole and separate obligation of plaintiff which plaintiff agrees to pay or otherwise resolve.

11 (f) By his/her signature below, plaintiff declares under penalty of perjury under
12 the laws of the State of Oregon, that: 1) the members of the Estate are not currently entitled to
13 Medicare; and 2) none of the treatment received for the injury or injuries claimed in this lawsuit (or
14 related to the incident giving rise to this lawsuit) or released in this agreement were submitted to or
15 paid for by Medicare.

16 4. Plaintiff agrees to dismiss the pending litigation with prejudice by authorizing his/her
17 attorney to execute a Stipulated General Judgment of Dismissal with Prejudice as to all parties and
18 without costs or attorney fees awarded to any party.

19 5. As evidenced by his/her signature below, plaintiff hereby declares that he/she has
20 read this release and that it is fully understood and voluntarily accepted by the Estate of Jeanette
21 Maples for the purpose of making a full, final and complete settlement, adjustment and compromise
22 of any and all claims, including those arising out of the transactions alleged in the lawsuit identified
23 above, in whatever legal form or theory he/she might assert the same, whether disputed or
24 otherwise, and in particular including, but not limited by, those matters asserted, or which might
25 have been asserted, in the civil suit identified in paragraph 1.

1 6. The parties to this Agreement agree that no party warrants or represents how the
2 United States Internal Revenue Service ("IRS"), the Oregon Department of Revenue, or other
3 governmental authority will treat the payment described in paragraph 3(a) for tax purposes, and
4 agree that no further payment of money from Released Parties will be due in the event that the
5 payments or the release of the claims embodied in this Agreement or any portion thereof is found by
6 the IRS, the Oregon Department of Revenue, or other governmental authority to be, or result in,
7 taxable income to any party. *The State of Oregon, as part of its reporting requirements, may have*
8 *to communicate with the IRS including submitting IRS form 1099. The State of Oregon reserves*
9 *the right to respond to inquiries by said authorities and to make any additional disclosures*
10 *requested by the governmental authority or as required by law.* Upon receipt of written
11 notification from the State of Oregon that such liability has been imposed by the IRS, the Oregon
12 Department of Revenue, or any other governmental authority and the amount thereof, plaintiff
13 agrees to fully remit such monies to the demanding entity within thirty (30) days from his/her
14 receipt of such notification or upon any such terms as the demanding entity may permit. Plaintiff
15 understands that he/she is solely responsible for the tax consequences of the payments outlined
16 above in paragraph 3(a). Plaintiff agrees not to hold any other party to this Agreement responsible
17 for taxes due and recognizes that he/she is solely responsible for any resultant tax payments
18 associated with this release.

19 7. As evidenced by his/her signature below, plaintiff represents that he/she has relied on
20 his/her own judgment and advice of his/her own attorney in making this settlement, and that no
21 representations have been made to him/her by the released parties, defense counsel, or State
22 Defendant(s) or their insurer and/or the Department of Administrative Services (Risk Management)
23 personnel.

24 8. The parties understand and agree that this Agreement represents a full, complete and
25 final compromise, satisfaction and resolution of all of plaintiff's disputed claims, and plaintiff
26 acknowledges that he/she relinquishes his/her claims voluntarily and knowledgeably.

1 9. As evidenced by his/her signature below, plaintiff understands and agrees that this
2 settlement is not to be construed as an admission or proof of any liability or fault whatsoever on the
3 part of the Released Parties, or any other officer, agent or representative of the State of Oregon.

4 10. As evidenced by his/her signature below, plaintiff acknowledges that this Agreement
5 is intended to include and does include all claims against any Released Party not only for all known
6 injuries, losses, and damages, but any further injuries, losses, and damages not now known or
7 anticipated but which may later develop or be discovered, including all effects and consequences
8 thereof. Plaintiff further acknowledges by his/her signature below that it is his/her intention in the
9 execution of this Agreement, shall be an effective and a full and final settlement of, and as a bar to
10 each and every claim which he/she may hereafter have against the Released Parties that arise out of
11 or relate to the civil proceedings identified in paragraph (1) above or that could have been asserted
12 as part of such proceedings.

13 11. As evidenced by his/her signature below, plaintiff further acknowledges if he/she
14 hereafter discovers facts different from or in addition to the facts which he/she now knows or
15 believes to be true with respect to the subject matter of this Agreement, it is nevertheless his/her
16 intention to hereby settle finally any and all claims which now exist or which hereafter may exist
17 between him/her and the Released Parties arising out of or relating to the civil proceedings
18 identified in paragraph (1) above. In furtherance of such intention, the release herein shall be and
19 will remain in effect as a release, notwithstanding the discovery of any such different or additional
20 facts.

21 12. As evidenced by his/her signature below, plaintiff further acknowledges that this
22 agreement is not binding until an Order approving this agreement is entered by the probate court

23 //

24 //

25 //

1 which appointed plaintiff, that plaintiff is responsible for submitting this agreement for approval by
2 that court, that she will affirmatively represent to the probate court that the settlement agreement is
3 in the best interests of the Estate, that she will defend against any and all challenges to the
4 settlement, and that she will do so at the sole expense of the Estate.
5

6 **IT IS SO REPRESENTED AND AGREED:**

7 DATED this _____ day of January, 2012.
8

9 _____
10 ERIN K. OLSON, as personal representative
for the Estate of JEANETTE MAPLES, also
known as JANETTE MAPLES, decedent

11 SUBSCRIBED AND SWORN to before me this _____ day of January, 2012, in the State of
12 Oregon, County of _____.
13

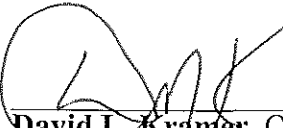
14 _____
15 Notary Public for Oregon
My Commission Expires: _____
16
17

18 **APPROVED AS TO FORM:**

19 DATED this _____ day of January, 2012

20 _____
21 David Paul, OSB # 86260
Attorney for Plaintiff

22 DATED this 23 day of January, 2012

23 
24 David L. Kramer, OSB #80290
Attorneys for Defendant
25
26